

INDUSTRIAL ARBITRATION (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 39, 1971.

An Act to make provisions for the taking of secret ballots by members of trade unions on certain matters; for this purpose to amend the Industrial Arbitration Act, 1940; and for purposes connected therewith. [Assented to, 2nd November, 1971.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Industrial Arbitration **Short title.** (Amendment) Act, 1971".

2.

*Industrial Arbitration (Amendment).***No. 39, 1971**Amendment
of Act No.
2, 1940.Sec. 2.
(Division
into
Parts.)New
Part XA.Secret
ballots on
order of
commission
or concilia-
tion com-
missioner.**2. The Industrial Arbitration Act, 1940, is amended :—**

(a) by inserting in section two next after the matter relating to Part X the following new matter :—

PART XA.—SECRET BALLOTS ON INDUSTRIAL MATTERS—ss. 106A–106D.

(b) by inserting next after Part X the following new Part :—

PART XA.**SECRET BALLOTS ON INDUSTRIAL MATTERS.**

106A. (1) The commission or a conciliation commissioner may—

(a) at any time or from time to time during the progress of any strike or whenever it or he has reason to believe that a strike is contemplated by the members of any trade union or by any class or section of such members order that a secret ballot or ballots of the members of the trade union or class or section involved or likely to be involved therein shall be taken for the purposes of determining whether a majority of such members or class or section is or is not in favour of the continuance or institution respectively of the strike; and

(b) in respect of any industrial or like matter whether or not proceedings in relation to that matter are before the commission or conciliation commissioner, as the case may be, order that a secret ballot or ballots of the members of the trade union or any class or section of such members affected or likely to be affected thereby shall be taken for the purposes of ascertaining their views or opinions thereon.

(2)

Industrial Arbitration (Amendment).

(2) Where the commission or a conciliation commissioner makes an order under subsection one of this section the commission or the conciliation commissioner shall have the power to—

- (a) direct the manner in which the secret ballot shall be taken;
- (b) give directions for the conduct of the ballot;
- (c) direct the ballot to be conducted by the trade union concerned or by the Electoral Commissioner for New South Wales or by the trade union in co-operation with the Electoral Commissioner for New South Wales; and
- (d) give such other directions as appear to it or him to be necessary to ensure that the ballot is effectively taken and conducted.

(3) The expense incurred in the conduct of any ballot under this section shall be borne by the State.

106B. (1) During the progress of any strike Request by trade unions for secret ballots on strikes.

by the members of a trade union or any class or section of its members or whenever a strike is contemplated by the members of a trade union or any class or section of its members the trade union concerned may request the registrar to conduct a secret ballot of its members or of the class or section of its members involved or likely to be involved in the strike for the purposes of ascertaining whether a majority of such members or class or section is or is not in favour of the continuance or institution respectively of the strike.

(2) A request under this section—

- (a) may be made on behalf of the trade union by the committee of management of the trade union;

(b)

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- (b) shall be in writing and specify the reasons for the making of the request;
- (c) shall be accompanied by a concise statement of the facts relevant to the strike or contemplated strike; and
- (d) shall be accompanied by a statutory declaration by the secretary of the trade union declaring that the matters set forth in the request are to the best of his knowledge and belief true.

**Registrar's
powers on
request
for secret
ballot.**

106C. (1) Where a request has been made to the registrar under section 106B of this Act—

- (a) he shall, if he is satisfied that there are reasonable grounds for the holding of a secret ballot and the circumstances justify the same, grant the request;
- (b) he shall, if he is not so satisfied, refuse the request and inform the trade union accordingly; or
- (c) he may refer such request to the commission for directions.

Where the registrar grants the request under paragraph (a) of this subsection he shall inform the trade union accordingly, direct that the secret ballot be conducted by his nominee or by the trade union or by the Electoral Commissioner for New South Wales and give such directions as appear to him necessary to ensure that the ballot is effectively taken and conducted including directions as to the manner in which the ballot is to be taken and as to the conduct of the ballot.

(2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the request but he may nevertheless take into account any relevant information coming to his knowledge.

(3)

Industrial Arbitration (Amendment).

(3) The expense incurred in a ballot conducted under this section shall be borne by the trade union: Provided that the Minister may, on application by the trade union, determine that the expense so incurred, or a specified part thereof, shall be borne by the State.

106D. A person shall not—

- (a) obstruct the taking of a ballot conducted under this Part;
- (b) counsel persons who are entitled to vote at any such ballot to refrain from so voting;
- (c) use any form of intimidation to prevent a person entitled to vote at any such ballot from voting; or
- (d) fail to carry out any orders or directions of the commission, conciliation commissioner or registrar made or given pursuant to this Part of this Act.

Offences
in
connection
with
secret
ballots.

Any person contravening or failing to comply with the provisions of this section shall be liable to a penalty not exceeding five hundred dollars or imprisonment for six months or both.

APPROPRIATION